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VALID FROM 26/07/2021

## SCHEDULE 7

(introduced by section 33)

### EMPLOYMENT-INJURY ASSISTANCE REGULATIONS

PROSPECTIVE

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

##### ELIGIBILITY IS TO DEPEND ON BEING INJURED OR CONTRACTING A DISEASE AT WORK

- 1 The regulations must be framed so that (subject to any provision of the kind described in paragraph 2) an individual's eligibility depends on the individual—
- (a) having suffered a relevant personal injury caused by an accident arising out of and in the course of the individual's employment, or
  - (b) developing a relevant disease, or suffering a relevant personal injury, due to the nature of the individual's employment.
- 2 (1) The regulations may be framed so that, despite the criterion described in paragraph 1 not being fulfilled, an individual may nevertheless be eligible.
- (2) Where the regulations allow an individual to be eligible despite the criterion described in paragraph 1 not being fulfilled, they must be framed so that the individual's eligibility depends on the individual having, or having had, a relationship of a kind specified in the regulations to an individual who suffered a personal injury, or developed a disease, in the circumstances mentioned in paragraph 1.
- 3 (1) The regulations are to define the following terms for the purpose of determining entitlement to employment-injury assistance—
- (a) employment,
  - (b) relevant personal injury,
  - (c) relevant disease.
- (2) The regulations may not define “employment” so as to include employment, or training for employment, that is not “relevant employment” as defined in the interpretation provision of Section F1 of Part 2 of schedule 5 of the Scotland Act 1998.
- (3) The regulations may define “relevant personal injury” and “relevant disease” by reference to the circumstances in which an injury is suffered or a disease is developed as well as by reference to its kind and severity.

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## CHAPTER 2

### FURTHER CRITERIA

#### *Place where injury suffered or disease contracted*

- 4           The regulations may make an individual's eligibility depend on where, geographically, the injury was suffered or the disease developed (or is deemed to have been suffered or developed).

#### *Residence and presence*

- 5           The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

#### *Age*

- 6           The regulations may make an individual's eligibility depend on the individual's age.

#### *Financial circumstances*

- 7           Subject to paragraph 8, the regulations may not make an individual's eligibility depend on the financial circumstances of either or both—  
           (a) the individual, and  
           (b) anyone who lives with the individual.

#### *Receipt of, or eligibility for, other types of State assistance*

- 8           The regulations may make an individual's eligibility depend on the individual—  
           (a) being, or not being, in receipt of another type of assistance (whether under this Act or another enactment),  
           (b) being, or not being, eligible or entitled to receive such assistance.

#### *Application within specified period*

- 9           The regulations may provide that an individual ceases to be eligible on account of an injury being suffered or a disease developed unless, by a deadline specified in the regulations—  
           (a) the individual has applied for employment-injury assistance, or  
           (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to employment-injury assistance by regulations under section 52.

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## PART 2

### ASSISTANCE TO BE GIVEN

#### CHAPTER 1

##### VALUE

PROSPECTIVE

##### *Nature of injury or disease*

- 10 The regulations may make the value of the employment-injury assistance that is to be given to an individual depend on the—
- (a) kind, and
  - (b) severity,
- of the injury or disease in respect of which the assistance is to be given.

PROSPECTIVE

##### *Age*

- 11 The regulations may make the value of the employment-injury assistance that is to be given to an individual depend on the individual's age.

PROSPECTIVE

#### CHAPTER 2

##### FORM

##### *Meeting liabilities*

- 12 The regulations may provide for the employment-injury assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

##### *Restriction on giving assistance in a form other than money*

- 13 (1) The regulations may allow employment-injury assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

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- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given employment-injury assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for employment-injury assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

*Restriction on lump sums*

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The regulations may not provide for the employment-injury assistance that is to be given to an individual to be given by way of a lump-sum payment where the individual's entitlement arises on account of someone having, or having had—

- (a) pneumoconiosis,
- (b) byssinosis,
- (c) diffuse mesothelioma,
- (d) bilateral diffuse pleural thickening, or
- (e) primary carcinoma of the lung where there is accompanying evidence of—
  - (i) asbestosis,
  - (ii) bilateral diffuse pleural thickening, or
  - (iii) both.

PROSPECTIVE

**PART 3**

FINAL PROVISIONS

*Generality of enabling power unaffected*

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Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—

- (a) Chapter 1 of Part 1,
- (b) paragraph 7 in Chapter 2 of Part 1,
- [<sup>F1</sup>(ba) paragraph 11A in Chapter 1 of Part 2,]
- (c) paragraphs 13 and 14 in Chapter 2 of Part 2.

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#### Textual Amendments

**F1** Sch. 7 para. 15(ba) inserted (26.7.2021) by Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18), ss. 13(4)(b), 18(2)(3); S.S.I. 2021/232, reg. 2(g)

#### *Interpretation*

16 In this schedule—  
“eligibility” means eligibility for employment-injury assistance, and  
“eligible” means eligible for employment-injury assistance,  
“the regulations” means regulations under section 33(2).

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